

equal to 35 percent of the aggregate amount contributed by the employer to medical savings accounts of employees for taxable years of such employees ending with or within such calendar year.

(c) WAIVER BY SECRETARY.—In the case of a failure which is due to reasonable cause and not to willful neglect, the Secretary may waive part or all of the tax imposed by subsection (a), to the extent that the payment of such tax would be excessive relative to the failure involved.

(d) EMPLOYER REQUIRED TO MAKE COMPARABLE MSA CONTRIBUTIONS FOR ALL PARTICIPATING EMPLOYEES.

(1) IN GENERAL.—An employer meets the requirements of this subsection for any calendar year if the employer makes available comparable contributions to the medical savings accounts of all comparable participating employees for each coverage period during such calendar year.

(2) COMPARABLE CONTRIBUTIONS.

(A) IN GENERAL.—For purposes of paragraph (1), the term "comparable contributions" means contributions—

(i) which are the same amount, or
 (ii) which are the same percentage of the annual deductible limit under the high deductible health plan covering the employees.

(B) PART-YEAR EMPLOYEES.—In the case of an employee who is employed by the employer for only a portion of the calendar year, a contribution to the medical savings account of such employee shall be treated as comparable if it is an amount which bears the same ratio to the comparable amount (determined without regard to this subparagraph) as such portion bears to the entire calendar year.

(3) COMPARABLE PARTICIPATING EMPLOYEES.—For purposes

of paragraph (1), the term "comparable participating employees" means all employees—

(A) who are eligible individuals covered under any high deductible health plan of the employer and
 (B) who have the same category of coverage.

For purposes of subparagraph (B), the categories of coverage are self-only and family coverage.

(4) PART-TIME EMPLOYEES.

(A) IN GENERAL.—Paragraph (3) shall be applied separately with respect to part-time employees and other

employees.

"(B) PART-TIME EMPLOYEE.—For purposes of subparagraph (A), the term "part-time employee" means any employee who is customarily employed for fewer than 30 hours per week.

"(e) CONTROLLED GROUPS.—For purposes of this section, all persons treated as a single employer under subsection (b), (c), (m), or (o) of section 414 shall be treated as 1 employer.

"(f) DEFINITIONS.—Terms used in this section which are also used in section 220 have the respective meanings given such terms in section 220."

(B) CLERICAL AMENDMENT.—The table of sections for chapter 43 is amended by adding after the item relating to section 4980D the following new item:

"Sec. 4980E. Failure of employer to make comparable medical savings account contributions."